

In re National Prescription Opiate Litigation: MDL 2804
Plaintiffs' Summary Judgment Roadmap

Opposition Name: Plaintiffs' Summary Judgment Roadmap

Opposing Parties: Plaintiffs Summit County and Cuyahoga County

Summary: Unlike the other memoranda plaintiffs are filing today in opposition to defendants' summary judgment motions, Plaintiffs' Summary Judgment Roadmap is not intended to be a response to any of the defendants' motions. It does not present evidence or legal argument. It is, instead, simply intended to provide a "roadmap" for the Court to help understand the organization of plaintiffs' responses, to identify the summary judgment motions to which each memorandum responds, like the roadmap briefing the parties provided to the Court on June 25th in advance of the filing of the motions, and to summarize for the Court the central issues raised by these motions and oppositions.

This Roadmap Brief alerts the Court that, in order to most clearly and efficiently respond to defendants' motions, and to avoid needless redundancy, plaintiffs have opted not to respond separately to each motion for summary judgment, but rather to organize our opposing memoranda in a manner that makes logical sense and thereby eases the burden on the Court. Plaintiffs are filing 18 separate briefs in opposition to defendants' 27 summary judgment motions, and the Roadmap brief explains the relationship between those 18 responses and the 27 motions.

Plaintiffs' Summary Judgment Roadmap divides defendants' motions into three groups: 1) a group of nine motions, roughly corresponding to the "Tranche One" motions in Special Master Cohen's June 21, 2019 Order (Dkt. # 1709), that collectively raise three significant issues that cut across plaintiffs' claims against all defendants and many of plaintiffs' causes of action: causation, conspiracy or concert of action (including RICO and OCPA), and statute of limitations; 2) a second group of seven motions addressing five discrete legal issues or categories of defendants: preemption, negligence per se, public nuisance, manufacturers of generic opioids, and distributors with allegedly *de minimis* market shares; and 3) a final group of ten defendant-specific motions for summary judgment. The Roadmap brief explains that when multiple motions in either of the first two groups address the same central issue, plaintiffs have chosen to file a single opposition memorandum on that subject. Plaintiffs are also filing separate oppositions to the remaining discrete legal issue motions and the defendant-specific motions. .

Plaintiffs believe that the three categories outlined above roughly correspond with the significance of the motions to the overall litigation; Plaintiffs therefore recommend that the Court take up the motions in order of these groupings.

Filing Date: June 28, 2019
Response Date: July 31, 2019
Reply Date: August 16, 2019